

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

VICKI POPE, et al.,
Plaintiffs,

v.

UNITED HEALTHCARE INSURANCE
COMPANY,
Defendant.

Case No. [15-cv-03617-MEJ](#)

**ORDER RE: MOTION TO DISMISS
AND REQUEST TO FILE FIRST
AMENDED COMPLAINT**

Re: Dkt. Nos. 5, 10

Pending before the Court is Defendant United Healthcare Insurance Company's Motion to Dismiss, in which Defendant argues Plaintiffs Vicki and Gregory Pope's Complaint must be dismissed for failure to state a claim based on ERISA preemption. Dkt. No. 5. Plaintiffs have filed a response in which they agree this case is governed by ERISA and requesting leave to file an amended complaint. Under Federal Rule of Civil Procedure 15, a party may amend its pleading once "as a matter of course" within "21 days after service of a motion under Rule 12(b), (e), or (f)." Fed. R. Civ. P. 15(a)(1)(B). Accordingly, the Court **GRANTS** Plaintiffs' request. Plaintiffs shall e-file their First Amended Complaint by August 28, 2015 (no chambers copy is required). Defendant's Motion to Dismiss is **DENIED AS MOOT**.

IT IS SO ORDERED.

Dated: August 27, 2015



MARIA-ELENA JAMES
United States Magistrate Judge